

## CCRB INVESTIGATIVE RECOMMENDATION

|   |  |                           |  |   |                                 |
|---|--|---------------------------|--|---|---------------------------------|
| Investigator:<br>Jennifer Smith                   | Team:<br>Squad #14                                   | CCRB Case #:<br>201800971 | <input type="checkbox"/> Force                         | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|   |  |                           | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.                 | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Monday, 11/20/2017 2:00 PM    | Location of Incident:<br>114th Precinct stationhouse | Precinct:<br>114          | 18 Mo. SOL<br>5/20/2019                                | EO SOL<br>5/20/2019                           |                                 |
| Date/Time CV Reported<br>Mon, 01/29/2018 11:30 AM | CV Reported At:<br>IAB                               | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Mon, 02/05/2018 10:59 AM |   |                                 |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
|                    |      |              |

| Witness(es) | Home Address |
|-------------|--------------|
|             |              |

| Subject Officer(s)        | Shield | TaxID  | Command |
|---------------------------|--------|--------|---------|
| 1. POF Jessica Ricotta    | 01828  | 962055 | 114 PCT |
| 2. CPT Osvaldo Nunez      | 00000  | 918086 | 114 PCT |
| 3. SGT John Christopoulos | 405    | 944439 | 114 PCT |

| Witness Officer(s)     | Shield No | Tax No | Cmd Name |
|------------------------|-----------|--------|----------|
| 1. POF Rosemary Guzman | 07815     | 944268 | 114 PCT  |

| Officer(s)               | Allegation  | Investigator Recommendation |
|--------------------------|---|-----------------------------|
| A.POF Jessica Ricotta    | Discourtesy: On the first unknown date in November of 2017, Police Officer Jessica Ricotta spoke discourteously to § 87(2)(b)                       |                             |
| B.SGT John Christopoulos | Discourtesy: On the first unknown date in November of 2017, Sergeant John Christopoulos spoke discourteously to § 87(2)(b)                          |                             |
| C.POF Jessica Ricotta    | Abuse: On the first unknown date in November of 2017, Police Officer Jessica Ricotta threatened to arrest § 87(2)(b)                                |                             |
| D.POF Jessica Ricotta    | Abuse: On the first unknown date in November of 2017, Police Officer Jessica Ricotta threatened § 87(2)(b) with the use of force.                   |                             |
| E.POF Jessica Ricotta    | Abuse: On the first unknown date in November of 2017, Police Officer Jessica Ricotta refused to provide her name and/or shield number to § 87(2)(b) |                             |
| F.CPT Osvaldo Nunez      | Abuse: On the second unknown date in November of 2017, Captain Osvaldo Nunez threatened to arrest § 87(2)(b)  |                             |

### Case Summary

On January 29, 2018, § 87(2)(b) called the IAB command center and filed this complaint, which was received at the CCRB on February 5, 2018.

On an unknown date in November of 2017, at approximately 2:00 p.m., § 87(2)(b) was at the 114<sup>th</sup> Precinct stationhouse following up on a criminal complaint when Police Officer Jessica Ricotta and Sergeant John Christopoulos of that command allegedly spoke discourteously to § 87(2)(b) and to each other in § 87(2)(b)'s presence (**Allegations A and B: Discourtesy, § 87(2)(g)**). PO Ricotta allegedly threatened § 87(2)(b) with arrest and forcible removal from the stationhouse (**Allegations C and D: Abuse of Authority, § 87(2)(g)**). PO Ricotta also allegedly refused to provide her name and shield number to § 87(2)(b) (**Allegation E: Abuse of Authority, § 87(2)(g)**).

The following day, § 87(2)(b) returned to the stationhouse with his lawyer, § 87(2)(b) and Captain Osvaldo Nunez of the same command allegedly threatened to arrest § 87(2)(b) (**Allegation F: Abuse of Authority, § 87(2)(g)**).

No summons or arrests resulted from these incidents.

There is no video evidence in this case.

### Findings and Recommendations

**Allegation A - Discourtesy: Police Officer Jessica Ricotta spoke discourteously to § 87(2)(b)**

**Allegation B - Discourtesy: Sergeant John Christopoulos spoke discourteously to § 87(2)(b)**

**Allegation C - Abuse of Authority: Police Officer Jessica Ricotta threatened to arrest § 87(2)(b)**

**Allegation D – Abuse of Authority: Police Officer Jessica Ricotta threatened § 87(2)(b) with the use of force.**

**Allegation E - Abuse of Authority: Police Officer Jessica Ricotta refused to provide her name and/or shield number to § 87(2)(b)**

§ 87(2)(b) (01 Board Review) said he went to the stationhouse to follow up on his criminal complaint about a burglary. He spoke with PO Ricotta at the front desk, who informed § 87(2)(b) that his complaint was flagged as a civil dispute and would not be investigated. § 87(2)(b) demanded to speak to PO Ricotta's supervisor. PO Ricotta turned around in her chair and spoke to Sgt. Christopoulos, who was standing behind her. During § 87(2)(b)'s initial phone statement (02 Board Review), he alleged that PO Ricotta said to Sgt. Christopoulos, "This fucking idiot wants to talk to you." During his interview, he alleged that PO Ricotta actually referred to him as a "fucking dickhead." When the discrepancy was addressed, § 87(2)(b) said he did not recall PO Ricotta's exact statement. Sgt. Christopoulos told PO Ricotta, "I'm not here." In an email sent by § 87(2)(b) after his interview (03 Board Review), § 87(2)(b) alleged that PO Ricotta said, "Do you want to speak to this idiot who keeps on coming back?," to which Sgt. Christopoulos allegedly replied, "Then he should get a fucking lawyer."

PO Ricotta told § 87(2)(b) that he had already been to the stationhouse approximately 20 times, and that each time, he was told that his complaint was a civil matter to be handled in housing court. § 87(2)(b) acknowledged that he had gone to the stationhouse approximately 20 times. § 87(2)(b) asked PO Ricotta to review his complaint report again and PO Ricotta allegedly replied, "No, I don't have to read shit. I'm telling you to leave." § 87(2)(b) said he refused to leave until he spoke to a supervisor. PO Ricotta allegedly said, "If you do not leave

right now, I will have you arrested and forcibly removed” for trespassing and not complying with police orders. § 87(2)(b) repeated his request for a supervisor. PO Ricotta allegedly replied, “If you do not leave willingly, I will either forcibly remove you or arrest you.” § 87(2)(b) asked PO Ricotta for her name and shield number. PO Ricotta allegedly said she did not have a shield and swiveled her chair slightly to the left, covering her shield with her arm. § 87(2)(b) pointed to PO Ricotta’s shield and said, “Then what is that?” PO Ricotta allegedly said, “I’m going to ask you one more time. If you don’t exit the building, I will have you forcibly removed or arrested.” § 87(2)(b) then left the stationhouse. PO Ricotta never verbally stated her name or shield number to § 87(2)(b) though he recalled seeing “Ricotta” on her nameplate.

Following his CCRB interview, § 87(2)(b) called the CCRB (05 Board Review) and said at an unspecified time during the incident, PO Ricotta told him he was belligerent, intoxicated, and asked him if he was “fucked up.” § 87(2)(b) replied that he had Multiple Sclerosis. PO Ricotta became silent and put her head down. § 87(2)(b) noted that due to his Multiple Sclerosis, he has tremors, which appear to others as him being drunk.

PO Ricotta (06 Board Review) said after observing that § 87(2)(b)’s burglary report had been voided, she spoke to the detective who was assigned to investigate § 87(2)(b)’s complaints, who explained that § 87(2)(b)’s complaint was to be handled in landlord/tenant court. PO Ricotta relayed the information to § 87(2)(b) and he asked to speak to her commanding officer, who was not available. § 87(2)(b) instead spoke to Sgt. Christopoulos, who relayed the same information that PO Ricotta did. § 87(2)(b) was disappointed but calm, and he left the stationhouse.

PO Ricotta denied all allegations of discourteous language, threat of force, threat of arrest, and refusal to provide name/and shield number. She denied ever suspecting that § 87(2)(b) was intoxicated and said there was no indication that § 87(2)(b) had Multiple Sclerosis. PO Ricotta also denied ever hearing Sgt. Cristopoulos use discourteous language regarding § 87(2)(b).

Sgt. Christopoulos (07 Board Review) did not recall this incident or § 87(2)(b). He denied ever using discourteous language regarding § 87(2)(b) and denied witnessing any of the allegations made against PO Ricotta.

§ 87(2)(g)

**Allegation F – Abuse of Authority: On the second unknown date in November of 2017, Captain Osvaldo Nunez threatened to arrest § 87(2)(b)**

§ 87(2)(b) returned home and hired § 87(2)(b) an attorney, to escort him to the stationhouse the following day. Upon their arrival, § 87(2)(b) told PO Ricotta, at the front desk again, that he and § 87(2)(b) needed to speak to a supervisor. PO Ricotta escorted them to a room, where they spoke to Captain Nunez and additional officers who reiterated that § 87(2)(b) needed to go to civil court because his complaint was not a criminal matter. § 87(2)(b) presented § 87(2)(b)’s settlement agreement from civil court, and told Captain Nunez that the burglary aspect of § 87(2)(b)’s complaint still needed investigating. Captain Nunez said § 87(2)(b)’s case was not a burglary. § 87(2)(b) asked Captain Nunez to define

“burglary.” Captain Nunez allegedly replied, “Please advise your client to leave, otherwise we will arrest him right here in front of you.”

§ 87(2)(b)'s statement (08 Board Review) was consistent with § 87(2)(b)'s. He added that Captain Nunez specified that § 87(2)(b) would be charged with trespassing.

Captain Nunez acknowledged (09 Board Review) making the alleged statement. Captain Nunez said prior to threatening to arrest § 87(2)(b) he learned from officers in his command that § 87(2)(b) had come to the stationhouse approximately six times attempting to file a burglary complaint after already having filed the same complaint, which had been voided months prior because it was not a burglary. Captain Nunez was told § 87(2)(b) was aware of all of this. § 87(2)(b) was taxing police resources by re-appearing at the stationhouse and attempting to file a new burglary report for the same incident, and he was “cop-shopping” by trying to find a new officer who had not spoken to yet, in hopes of getting them to file the report for him again.

Captain Nunez informed § 87(2)(b) that § 87(2)(b) had already been to the stationhouse six times and that Captain Nunez had ordered officers to arrest § 87(2)(b) if he came back to the stationhouse attempting to file the same burglary complaint. Captain Nunez told § 87(2)(b) the only reason that § 87(2)(b) was not under arrest was because an attorney was with him. Captain Nunez said § 87(2)(b) was not to come to the stationhouse again to follow up on the voided burglary report or he would be arrested. However, he specified that § 87(2)(b) could still come to the stationhouse to file any report unrelated to this incident. § 87(2)(b) and § 87(2)(b) then left the stationhouse.

NY Penal Law, Section 140.05 states that a person is guilty of trespassing when he or she knowingly enters or remains on premises unlawfully (10 Board Review).

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (13 Board Review).
- PO Ricotta has been a member-of-service for one year and this is the first CCRB complaint to which she has been a subject.
- Sgt. Christopoulos has been a member-of-service for 10 years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Captain Nunez has been a member-of-service for 21 years and has been a subject in 19 CCRB complaints and 51 allegations, one of which was substantiated.
  - Case #200100569 involved a substantiated allegation of force (radio as a club) against Captain Nunez. The Board recommended charges, and Captain Nunez was found not guilty. Captain Nunez was cited for other misconduct for allegedly providing a false official statement regarding this same allegation.

- § 87(2)(g) [Redacted]

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b) [Redacted] filed a Notice of Claim with the City of New York claiming emotional suffering, worsening of his multiple sclerosis, lost wages, and attorney fees, and seeking \$2,285,250.92 as redress (12 Board Review). As of June 11, 2018, no 50H hearing had been scheduled.
- § 87(2)(b) [Redacted]

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Squad No.: 14

|               |           |                    |       |
|---------------|-----------|--------------------|-------|
| Investigator: | _____     | _____              | _____ |
|               | Signature | Print Title & Name | Date  |
| Squad Leader: | _____     | _____              | _____ |
|               | Signature | Print Title & Name | Date  |
| Reviewer:     | _____     | _____              | _____ |
|               | Signature | Print Title & Name | Date  |